

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tileyah Williams	Team: Squad #3	CCRB Case #: 202104135	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/30/2021 2:00 AM	Location of Incident: Outside of § 87(2)(b)	Precinct: 71	18 Mo. SOL 12/30/2022	EO SOL 12/30/2022	
Date/Time CV Reported Wed, 06/30/2021 3:46 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 07/13/2021 11:51 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Peter Lan	08058	955756	071 PCT
2. POF Ketisha Edwards	15424	967857	071 PCT
3. LT Melissa Clark	00000	932472	071 PCT
4. POM Roberson Altes	04490	934312	071 PCT
5. PO Christopher Rodriguez	04501	964733	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Omar Delarosa	06614	964474	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Peter Lan	Force: Police Officer Peter Lan used physical force against § 87(2)(b)	
B.LT Melissa Clark	Abuse: Lieutenant Melissa Clark stopped § 87(2)(b)	
C.PO Christopher Rodriguez	Abuse: Police Officer Christopher Rodriguez frisked § 87(2)(b)	
D.LT Melissa Clark	Abuse: Lieutenant Melissa Clark searched the vehicle in which § 87(2)(b) was an occupant.	
E.POF Ketisha Edwards	Abuse: Police Officer Ketisha Edwards failed to provide § 87(2)(b) with a business card.	
F.LT Melissa Clark	Abuse: Lieutenant Melissa Clark failed to provide § 87(2)(b) with a business card.	
G.POM Roberson Altes	Abuse: Police Officer Roberson Altes failed to provide § 87(2)(b) with a business card.	
H.LT Melissa Clark	Abuse: Lieutenant Melissa Clark obstructed her name.	
I.LT Melissa Clark	Abuse: Lieutenant Melissa Clark failed to provide § 87(2)(b) with a business card.	

## Case Summary

On June 30, 2021, § 87(2)(b) filed this complaint on behalf of himself and his mother's husband, § 87(2)(b) over the phone with IAB generating original log number 2021-14749.

On June 30, 2021, at approximately 2:00 a.m., § 87(2)(b) was at his recording studio at § 87(2)(b) in Brooklyn. § 87(2)(b) arrived at the location and engaged in a physical and verbal dispute with § 87(2)(b). § 87(2)(b) called 911 and Lieutenant Melissa Clark, Police Officer Roberson Altes, Police Officer Peter Lan, Police Officer Ketisha Edwards, Police Officer Christopher Rodriguez and Police Officer Omar Delarosa, all of the 71<sup>st</sup> Precinct arrived. PO Lan allegedly pushed § 87(2)(b) hand down forcefully while § 87(2)(b) was speaking (**Allegation A: Force**, § 87(2)(g)). Lt. Clark spoke to § 87(2)(b) about the incident and at some point, he volunteered to let officers frisk him and search his car (**Allegation B: Abuse of Authority**, § 87(2)(g)) (**Allegation C: Abuse of Authority**, § 87(2)(g)) and (**Allegation D: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) asked Lt. Clark, PO Edwards and PO Altes for their business cards and they did not provide them (**Allegation E: Abuse of Authority**, § 87(2)(g)) (**Allegation F: Abuse if Authority**, § 87(2)(g)) (**Allegation G Abuse of Authority**, § 87(2)(g)). Lt. Clark's mourning band was allegedly covering her name (**Allegation H: Abuse of Authority**, § 87(2)(g)). Lt. Clark did not provide § 87(2)(b) with a business card (**Allegation I: Abuse of Authority**, § 87(2)(g)). Neither § 87(2)(b) nor § 87(2)(b) were arrested or issued a summons.

The investigation obtained body-worn camera (BWC) videos from all the officers who responded (**01, 02, 03, 04 Board Review**).

## Findings and Recommendations

### **Allegation (A) Force: Police Officer Peter Lan used physical force against § 87(2)(b)**

§ 87(2)(b) testified that on June 30, 2021, he was having a disagreement with § 87(2)(b) at their home in Queens (**05 Board Review**). § 87(2)(b) left their home and went to work at § 87(2)(b) in Brooklyn. Soon after, § 87(2)(b) arrived outside of § 87(2)(b)'s workplace. § 87(2)(b) saw him through the glass door. § 87(2)(b) immediately called 911 and told them that § 87(2)(b) was there. He also told the operator that there was an incident in the past with § 87(2)(b) where he attempted to assault him with a machete. While on the phone, § 87(2)(b) saw that § 87(2)(b) put an object into his back pocket which appeared to be a knife. § 87(2)(b) told the operator that § 87(2)(b) had a knife. When § 87(2)(b) got off the phone with the operator, § 87(2)(b) made a motion as if he were putting a gun in his waist, though § 87(2)(b) did not get a chance to tell the operator this. While he waited for officers, § 87(2)(b) broke off § 87(2)(b)'s aluminum door handle and tried to use it against the door to get in. Approximately 10 minutes later, PO Lan, PO Edwards, Lt. Clark and PO Altes responded. § 87(2)(b) walked toward his car. Lt. Clark and PO Altes walked toward § 87(2)(b) while PO Lan and PO Edwards walked toward § 87(2)(b). § 87(2)(b) explained to PO

Lan and PO Edwards that § 87(2)(b) threatened his life. PO Lan and PO Edwards were standing in front of § 87(2)(b). § 87(2)(b) was then speaking loudly to the officers because he was upset but remained respectful to the officers. At one point, § 87(2)(b) pointed toward his broken door handle which was then on top of a garbage bin near the front of his studio door. § 87(2)(b) used his finger to point toward § 87(2)(b) while he talked about him. PO Lan used his right hand to push § 87(2)(b)'s hand down quickly and forcefully. PO Lan then used an open palm on § 87(2)(b)'s chest and guided him back into his studio.

PO Lan's BWC starting at 5:05 minutes shows that PO Lan is standing in front of § 87(2)(b) who is facing the street (**01 Board Review**). § 87(2)(b) is standing on the outside of his studio. § 87(2)(b) yells and points toward § 87(2)(b) who is out of view. He yells, "You called my phone threatening my wife and threatening my mother. You're an evil man and drove all the way from Queens. I just don't want to go back to jail, that's why I'm doing this, calling you guys because normally I would have beat his ass." PO Lan uses his left open palm to guide § 87(2)(b)'s left arm downward and calmly says, "Listen, stop." He then touches § 87(2)(b)'s right arm with an open palm and tells him to stop. PO Lan says, "We're talking here, I don't need you talking to him and yelling at him because it's going to make more confusion." § 87(2)(b) responds that his son is there and that his two-year-old daughter is in the house that they shared. PO Lan responds that he would also be aggravated but that was the reason they were there and that he wanted to control the situation. PO Lan added that no one was going to be injured or hurt anymore because they were there. PO Lan then says that they have to figure out the situation. The BWC does not show PO Lan touching § 87(2)(b) after this.

PO Lan said that he did not quickly and forcefully push § 87(2)(b)'s hand down (**06 Board Review**). After reviewing his BWC recoding, PO Lan acknowledged that he touched § 87(2)(b) and said that he did so to try to make him calm down. He testified that he did not recall the interaction prior to reviewing his recording because he did not use force and was just trying to get § 87(2)(b)'s attention to calm him down.

§ 87(2)(b) testified that PO Lan used force against him, but PO Lan said that he did not do so. The BWC footage showed that PO Lan's actions against § 87(2)(b) were not forceful. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (B) Abuse of Authority: Lieutenant Melissa Clark stopped § 87(2)(b)**

**Allegation (C) Abuse of Authority: Police Officer Christopher Rodriguez frisked § 87(2)(b)**

**Allegation (D) Abuse of Authority: Lieutenant Melissa Clark searched the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) testified that § 87(2)(b) had gotten approximately five feet away from his studio when Lt. Clark and PO Altes approached him (**05 Board Review**). § 87(2)(b) heard an officer tell § 87(2)(b) "Let's talk over here" and walked with him near his

vehicle. § 87(2)(b) saw Lt. Clark and PO Altes pat § 87(2)(b)'s waist down while he stood next to his driver's side car door which was opened. § 87(2)(b) saw the pat down through the window of the car. Soon after, a vehicle arrived and two officers, PO Delarosa and PO Rodriguez exited and started looking around. They looked under cars and in § 87(2)(b)'s garbage bins. § 87(2)(b) believed that the officers were looking for § 87(2)(b)'s knife.

§ 87(2)(b) was unavailable to the investigation (see IAs for contact attempts).

NYPD EVENT § 87(2)(b) notes that § 87(2)(b) called 911 and reported that § 87(2)(b) displayed a knife and threatened his life (**07 Board Review**). He called back three minutes later and reported that § 87(2)(b) pulled out a gun on him. The radio communications for this event recorded that the central dispatcher informed officers about the knife over the radio, but not the gun (**08 Board Review**).

PO Lan's BWC recording shows that at 3:17 minutes, § 87(2)(b) loudly explains to PO Lan and PO Edwards that he saw § 87(2)(b) stick what appeared to be a ratchet blade in the back of his pants (**02 Board Review**). He said that he did not know what § 87(2)(b) did with the weapon and that the officers could check § 87(2)(b)'s car. He also said that he did not make a complaint about a gun. Lt. Clark's BWC shows that at 1:00 minute, when she arrives at the location, § 87(2)(b) and § 87(2)(b) were on the sidewalk, near the curb arguing (**03 Board Review**). As Lt. Clark steps on the sidewalk, both § 87(2)(b) and § 87(2)(b) are standing in front of her. Lt. Clark then asks PO Lan to talk to § 87(2)(b) and they walk toward his studio. Lt. Clark then talks to § 87(2)(b). § 87(2)(b) is heard making inaudible loud statements. At 4:25 minutes, Lt. Clark asked § 87(2)(b) why § 87(2)(b) told him to drop what he had, and § 87(2)(b) lifts his shirt to expose his waistline and says that he does not know because he does not have anything and only had his car (while pointing toward his car). At 7:22 minutes, Lt. Clark asks § 87(2)(b) if he has anything in his car that he is not supposed to have because § 87(2)(b) is saying that he has a gun. § 87(2)(b) says that he did not and that officers could check his car. He then walks toward his car and unlocks his car door.

PO Rodriguez's BWC recording shows that at 54 seconds, § 87(2)(b) walks away from Lt. Clark and is near PO Rodriguez and PO Delarosa (**04 Board Review**). They are standing in front of his car. PO Rodriguez asks § 87(2)(b) if he has any weapons and he says, "no, you can check me" and lifts his shirt revealing his waistline. PO Rodriguez pats down § 87(2)(b)'s pockets and the inside of his pant legs. § 87(2)(b) walks back to Lt. Clark and PO Rodriguez and PO Delarosa look around § 87(2)(b)'s car. The BWC records objects moving but do not show what they are. They look around the front seats and back passenger seats. At 3:53 minutes, PO Rodriguez tells Lt. Clark that the vehicle is clean.

Lt. Clark testified that she responded because the incident included a knife and was a priority assignment (**09 Board Review**). As she exited her vehicle, § 87(2)(b) approached her, and was free to leave at any point. Lt. Clark instructed PO Lan and PO Edwards to talk to § 87(2)(b). Lt. Clark saw that § 87(2)(b) appeared intoxicated and was shouting the whole time. § 87(2)(g) He reported that

§ 87(2)(b) had a knife but changed it to a pipe and then changed it again to a door handle. He said that his son was § 87(2)(b) old, and that the same son was at another point § 87(2)(b) years old. At one point, Lt. Clark told § 87(2)(b) that § 87(2)(b) said there was a knife. § 87(2)(b) voluntarily lifted his shirt to indicate that he did not have any weapons. § 87(2)(b) said, “You can see, I don’t have anything on me, I came with a jersey.” § 87(2)(b) then voluntarily told officers that they could search his car. Lt. Clark did not recall telling PO Rodriguez to frisk § 87(2)(b) and did not recall him doing so. After reviewing her BWC, Lt. Clark said that she asked § 87(2)(b) if he had anything that he was not supposed to have because the assignment came over as § 87(2)(b) having a knife. She did not know whether the central dispatcher provided information about a gun or whether § 87(2)(b) said something about a gun. Seeing the video did not help her remember which officers she spoke to about checking § 87(2)(b) s car. The officers were searching for any weapons that § 87(2)(b) mentioned, including the knife, gun, pipe, and metal bar. When she told the officers that § 87(2)(b) was going to open the car for them, she was implying that the officers should check the car for the weapons.

People v. DeBour (40 NY2d 210 [1976]) notes where a police officer entertains a reasonable suspicion that a particular person has committed, is committing or is about to commit a felony or misdemeanor, officers are authorized to forcibly stop and detain that person (**10 Board Review**). Where a stop is reasonable, the right to frisk must be immediate and automatic if the reason for the stop is an articulable suspicion of a crime of violence People v. Mack, 26 NY2d 311 (1970) (**11 Board Review**).

People v. Creary, 2022 NYLJ LEXIS 482 notes that when officers attempt to gain access of a vehicle, they must have evidence of suspected criminality involving the vehicle (**12 Board Review**). New York Penal Law 120.14 notes that a person is guilty of menacing in the second degree when: He or she intentionally places or attempts to place another person in reasonable fear of physical injury, serious physical injury, or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm (**13 Board Review**). Menacing in the second degree is a class A misdemeanor.

The Right to Know Act requires officers seeking consent to search a vehicle to articulate, using plain and simple language delivered in a non-threatening manner, that the person who is the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to such search, and explaining that such search will not be conducted if such person refuses to provide consent to such search. NYC Administrative Code Section 14-173 (**15 Board Review**).

§ 87(2)(g)  
[REDACTED]

§ 87(2)(b) reported that he saw § 87(2)(b) conceal a weapon in his pants. Lt. Clark decided to extend her search of weapons to § 87(2)(b)'s vehicle, though at the point where she made this decision, she heard § 87(2)(b) continuously change the type of weapon that he saw and did not find him credible. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (E) Abuse of Authority: Police Officer Ketisha Edwards failed to provide § 87(2)(b) with a business card.**

**Allegation (F) Abuse of Authority: Lieutenant Melissa Clark failed to provide § 87(2)(b) with a business card.**

**Allegation (G) Abuse of Authority: Police Officer Roberson Altes failed to provide § 87(2)(b) with a business card.**

**Allegation (H) Abuse of Authority: Lieutenant Melissa Clark obstructed her name.**

**Allegation (I) Abuse of Authority: Lieutenant Melissa Clark failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) testified that at some point, Lt. Clark walked over to him and told him that § 87(2)(b) said that § 87(2)(b) called § 87(2)(b) to the location for electrical work (05 Board Review). Lt. Clark then turned around and told officers to tell § 87(2)(b) that he could leave. PO Edwards, PO Lan were one foot away from § 87(2)(b) and Lt. Clark was within an arm length of him. PO Altes was approximately three to four feet away from him. § 87(2)(b) asked, "Can I get ya'll badge numbers or business cards?" PO Lan gave § 87(2)(b) his business card while PO Edwards did not acknowledge or respond to § 87(2)(b)'s request. PO Altes turned to look directly at § 87(2)(b) and then started walking away. § 87(2)(b) asked to take a photo of PO Lan and PO Edwards shields and was able to get a clear photo of PO Lan's shield. PO Edwards held her shield toward § 87(2)(b)'s camera but before he could take the photo, PO Edwards moved, and he was not able to get a good picture. The photo was blurry. § 87(2)(b) did not know if PO Edwards did this purposely. § 87(2)(b) realized that he could not see Lt. Clark's name or shield number because it appeared that one of the straps which was attached to the leather shield holder covered her name. § 87(2)(b) asked her "Can I have your badge number or business card" and Lt. Clark told § 87(2)(b) that she did not have to give him a business card unless she searched and frisked him.

PO Lan's BWC recording shows that at 17:27, § 87(2)(b) says. "Can I have you guys' badge numbers and business cards"(02 Board Review). Lt. PO Lan and PO Edwards are in his immediate vicinity. PO Lan says 8058 and gives him a business card. Lt. Clark remains a few feet away. At 17:36 minutes, § 87(2)(b) asks to take a picture of his shield and PO Lan says that he can. PO Edwards stood inches away from § 87(2)(b) and held her badge upward for § 87(2)(b) to take a photo. § 87(2)(b) takes PO Lan's business card. At 17:45 minutes, § 87(2)(b) asks Lt. Clark for a picture of her badge and shield number and PO Lan says that she does not have a shield number. Lt. Clark reiterates that

there is no number and he asks for her card at 17:54 minutes. Lt. Clark tells § 87(2)(b) that he can take a picture of her shield if she wants, and that she could give him a card if she stopped and frisked him and that she did not. At 17:50 minutes, the angle shows that Lt. Clark's name is clearly displayed and that she had a mourning band on, though it was not covering any of her information. At 18:02 minutes, § 87(2)(b) held his arms out and asked if she wanted to frisk him and she said that she was not touching him or asking to touch him.

PO Edwards was on extended leave and was not interviewed by the CCRB regarding this incident (**14 Board Review**).

Lt. Clark said that after § 87(2)(b) asked for everyone's badge numbers and business cards, he then asked to take pictures of officer's shield numbers and badges (**09 Board Review**). Lt. Clark told him that he was free to take pictures. When PO Lan provided his business card and verbally said his shield number, § 87(2)(b) said that he would rather have a picture of PO Lan's business card and took a photo. § 87(2)(b) did not take PO Lan's business card. When § 87(2)(b) then asked Lt. Clark for identifying information, she told him that he could take a picture of her shield. § 87(2)(b) did take a photo of Lt. Clark's shield and said that she was hiding her shield number. Lt. Clark had a mourning band on her shield which was in the center of her shield and not covering anything. She explained to § 87(2)(b) that it was a mourning band and lifted the band so that § 87(2)(b) could see that it was not covering anything. Lt. Clark told § 87(2)(b) that she did not have a badge number but revealed her shield so that he could take a photo, which she felt was sufficient. When civilians ask Lt. Clark for her shield number, she provides her rank and her name, and she recalled that she provided this to § 87(2)(b). Lt. Clark knew that she was supposed to provide business cards when civilians ask, but she told § 87(2)(b) that she could not give him a business card unless she searched and frisked him. She did not have an issue with providing her business card but believed that after § 87(2)(b) took a photo of her shield, that he had all the information that her business card would have provided. Lt. Clark did not offer § 87(2)(b) her business card because when PO Lan offered the business card, § 87(2)(b) said that he would rather take a photo of it. It seemed to be his preference that he would rather have a photo. Lt. Clark did not provide § 87(2)(b) with a business card because he did not ask for one.

Administrative Guide 304-11 notes that officers should courteously and clearly state their rank, name, shield number and command or otherwise provide them to anyone who requests them to do so (**16 Board Review**). Officers must also offer Right to Know Business Cards at the conclusion of law enforcement activities (excluding summons issuance, arrests, or exigent circumstances). The guide also notes that officers should provide business cards at the request of members of the public.

When § 87(2)(b) requested identifying information from officers, PO Edwards and Lt. Clark were able to hear him, though PO Altes was not. PO Edwards held up her shield for § 87(2)(b) to take a photo but did not provide her business card. Lt. Clark noted that she believed that § 87(2)(b) was satisfied with a photo of her shield, however the footage shows that he repeatedly asked for a business card, and she refused. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

As mentioned earlier, the footage showed that PO Altes was not near § 87(2)(b) when he requested identifying information. The footage also shows that Lt. Clark was not obstructing her name with her mourning band. § 87(2)(g)

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (**16 Board Review**).
- PO Lan has been a member of service for eight years and this is the first CCRB complaint to which he has been a subject. § 87(2)(g)
- PO Edwards has been a member of service for three years and this is the first complaint to which she has been a subject. § 87(2)(g)
- Lt. Clark has been a member of service for 19 years and has been a subject in eight other CCRB complaints and 14 other allegations, two of which were substantiated.
  - Case 200515516 involved substantiated allegations of a frisk and question and/or stop. The Board recommended charges for both allegations and the NYPD imposed no disciplinary action. § 87(2)(g)
- PO Altes has been a member of service for 17 years and had been a subject in two other CCRB complaints and three other allegations. § 87(2)(g)
- PO Rodriguez has been a member of service for four years and has been a subject to 9 other cases and 24 other allegations, none of which were substantiated.
  - Case 202103919 involves two allegations of a frisk of a person. To date, the investigation is still active.
  - Case 202101686 involves an allegation of a frisk of a person. To date, this investigation is still active.

### Mediation, Civil, and Criminal Histories

- § 87(2)(g)
- As of April 17, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (**17 Board Review**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]



Squad: 3

Investigator: Tileyah Williams Investigator Tileyah Williams 10/7/2022  
Signature Print Title & Name Date

Squad Leader: Rolando Vasquez      IM Rolando Vasquez      10/7/2022  
Signature      Print Title & Name      Date